

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 2207 of 1982

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SURESHCHANDRA PUNAMCHAND PADH

Versus

ANVARHUSSAIN MOHAMMEDBHAI

Appearance:

MR RM CHHAYA for Petitioner
MR KV SHELAT for Respondent No. 1
SERVED for Respondent No. 2, 3, 4, 5

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 12/01/98

ORAL JUDGEMENT

This is a Revision under section 29(2) of the Bombay Rent Act challenging the judgment and decree dated 17.12.1982 passed by the Appellate Bench of the Small Causes Court at Ahmedabad confirming the judgment and decree dated 27.11.1981 for possession passed in favour of the plaintiff. The present Revision has been filed by

defendant No.2-Sureshchandra Poonamchand. He had filed application in the trial court - Exh. 'A' alleging that he is the real tenant of the suit premises. and that he does not know the defendant No.1. The Appellate Court found that the suit premises were let out to defendant No.1. An application for determination of standard rent was filed by defendant No.1 in the year 1973 wherein the standard rent of the suit premises was fixed. The Court also found that the defendant No.2 has not produced any rent receipt. The petitioner is an Advocate. The Court found that he would have definitely insisted for receipt of Rs.5000/- paid towards deposit and further receipt of the rent paid by him. The Court also noticed the fact that the defendant No.2 filed standard rent application being No. 953/77 for fixing the standard rent of the suit premises, but he has allowed the same to be dismissed on 22.12.1978 wherein also he has not deposited any amount towards rent. It appears that the petitioner who is said to be an Advocate, took all possible pleas including the plea that the suit premise was taken on rent in the name of his wife. The Court taken into consideration this fact, observed that the tenancy could not be changed in his name unless the landlord agree to that. After perusing the counter-foils of the two rent receipts, the Court found that the receipts at Exh.39 and 40 are in the name of defendant No.1. The Court also found that the petitioner came with a false claim in support of his case.

2. Mr K V Shelat, learned Advocate for the petitioner submits that an interim order has been obtained by the petitioner from this Court as back as on 31.12.1982, but the petitioner has not paid the amount till today. This Court, by order dated 7.4.1979 directed the petitioner to deposit an amount of Rs.24,675/- the same has also not been deposited.

None has appeared for the petitioner.

3. In view of the aforesaid, I find no merit in this Revision Application and the same is accordingly rejected with costs. Rule discharged. Interim relief stands vacated.

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msp.